

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Russo	Team: Squad #11	CCRB Case #: 201905367	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/18/2019 7:48 PM	Location of Incident: 2178 White Plains Road	Precinct: 49	18 Mo. SOL 12/18/2020	EO SOL 8/4/2021	
Date/Time CV Reported Wed, 06/19/2019 2:53 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/19/2019 2:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Roderick Martin	27346	950828	049 PCT
2. POM Jeffry Reyes	20839	959924	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Lord Gomez	19025	964020	049 PCT
2. POF Taina Vargasbakay	29800	935826	049 PCT
3. POF Gabriela Contreras	23724	963928	049 PCT
4. POM Collin Burns	12155	961659	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jeffry Reyes	Abuse: Police Officer Jeffry Reyes detained § 87(2)(b)	
B.POM Roderick Martin	Abuse: Police Officer Roderick Martin detained § 87(2)(b)	
C.POM Jeffry Reyes	Force: Police Officer Jeffry Reyes used physical force against § 87(2)(b)	
D.POM Jeffry Reyes	Discourtesy: Police Officer Jeffry Reyes spoke discourteously to § 87(2)(b)	
E.POM Jeffry Reyes	Abuse: Police Officer Jeffry Reyes forcibly removed § 87(2)(b) to the hospital.	
F.POM Roderick Martin	Abuse: Police Officer Roderick Martin forcibly removed § 87(2)(b) to the hospital.	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	

Case Summary

On June 19, 2019, § 87(2)(b) filed this complaint by phone with the CCRB.

On June 18, 2019, at approximately 7:48 p.m., § 87(2)(b) went to § 87(2)(b) urgent care facility located at § 87(2)(b) in the Bronx to get a pre-employment physical exam. When § 87(2)(b) stated that he had a mental illness, the § 87(2)(b) employees refused to serve him any further. § 87(2)(b) became upset, causing the § 87(2)(b) employees to call the police due to him being disorderly.

Police Officer Roderick Martin and Police Officer Jeffry Reyes responded to the scene and acquired information from both the § 87(2)(b) employees and § 87(2)(b). The officers detained § 87(2)(b) as they waited for an ambulance to arrive to evaluate as to whether § 87(2)(b) needed to receive medical attention (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). While they waited, § 87(2)(b) attempted to leave multiple times and became agitated. As he tried to leave, PO Reyes used a riot shield to push § 87(2)(b) against a storefront three times, then dropped his shield, grabbed § 87(2)(b) by the back of his collar and pushed him, face-first, into the glass window behind him (**Allegation C: Force, § 87(2)(g)**). As he pushed him with the shield, PO Reyes told § 87(2)(b) to “get the fuck back” and “what the fuck did I tell you” (**Allegation D: Discourtesy, § 87(2)(g)**). § 87(2)(b) was then handcuffed and taken to § 87(2)(b) in a marked police vehicle (**Allegations E and F: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was not arrested or issued any summonses as a result of this incident.

Video footage from the body-worn cameras worn by the officers involved was provided by the NYPD and § 87(2)(b) provided footage from their surveillance system.

§ 87(2)(b), § 87(2)(g)

On November 1, 2019, this case was reassigned from Investigator Shola Gbemi to Investigator Jessica Russo following Investigator Gbemi’s resignation from the agency.

Allegation (A) Abuse of Authority: Police Officer Jeffry Reyes detained § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Roderick Martin detained § 87(2)(b)

The investigation established the following facts:

An employee of the § 87(2)(b) called 911 to report that § 87(2)(b) was acting disorderly. Shortly after, § 87(2)(b) called 911 to file a report against § 87(2)(b) employees, who refused to see him because of his mental illness history.

PO Martin and PO Reyes arrived at the scene, where § 87(2)(b) was standing outside of the § 87(2)(b). PO Reyes entered the § 87(2)(b) to acquire information from the employees, while PO Martin spoke to § 87(2)(b). PO Martin then went in to speak to the employees, while PO Reyes spoke to § 87(2)(b). PO Martin joined § 87(2)(b) and PO Reyes. § 87(2)(b) was detained until an ambulance could respond to evaluate him. PO Lord Gomez, PO Taina

Vargas-Bakay, PO Gabriela Contreras and PO Collin Burns arrived as backup officers. § 87(2)(b) grew irritated, as EMS had not arrived after approximately 20 minutes. He was pacing back and forth and continuously asking if he could leave. He attempted to leave a couple of times, the final time which was prevented by PO Reyes pushing § 87(2)(b) with his riot shield three times. § 87(2)(b) was then handcuffed and taken to a local hospital in a police vehicle.

Surveillance footage from § 87(2)(b) (BR 01) portrays a 16-minute and 21-second long visual representation of the area surrounding the incident from the camera outside of their facility. The video is displayed in color and has no audio. § 87(2)(b) is seen attempting to leave at multiple points throughout the incident, which is prevented by officers blocking his path. Towards the end of the incident, § 87(2)(b) can be seen attempting to leave, at which point PO Reyes lightly pushes him with a riot shield, which causes § 87(2)(b) to make contact with the glass window behind him. PO Reyes proceeds to forcefully push § 87(2)(b) with the shield twice. PO Reyes then drops the shield, and grabs § 87(2)(b) by the back collar of his shirt and presses him against the window, face-first. PO Martin removes PO Reyes's hand from § 87(2)(b)'s shirt and pushes him away from § 87(2)(b) entirely, while other officers handcuff him.

PO Burns's Body Worn Camera (BR 02) portrays a 4-minute and 50-second long audio and visual display of the incident. At the 1:50 time stamp, PO Reyes can be seen pushing his riot shield into § 87(2)(b)'s upper body once softly and said, "Get back". § 87(2)(b) uses his forearm to slightly move the shield away from him. PO Reyes proceeds to forcefully push his shield onto § 87(2)(b)'s upper body twice and says, "Listen, get the fuck back", which causes him to make contact with the glass window behind him and his hat to fall off of his head. As shown in the surveillance video, PO Reyes uses his right hand to grab the back of § 87(2)(b)'s shirt collar and states "What the fuck did I tell you". PO Martin says "Alright, Alright, Reyes" to PO Reyes, as he pushes him away from § 87(2)(b).

PO Reyes stated (BR 03) that he and PO Martin received a call about an emotionally disturbed person (EDP) at a § 87(2)(b) on White Plains Road. PO Reyes did not recall any information about the EDP being violent. Upon arrival, PO Reyes stated that he believed that § 87(2)(b) was a danger to himself and others. When describing his initial demeanor, PO Reyes stated (BR 03) that § 87(2)(b) was upset but not yet agitated.

PO Reyes entered § 87(2)(b) to check in with the employees regarding § 87(2)(b)'s behavior, while PO Martin stayed outside with § 87(2)(b). The employees did not inform PO Reyes that § 87(2)(b) posed a threat of harm. PO Reyes spoke to the manager of the § 87(2)(b) for about six seconds. The manager said that § 87(2)(b) became upset when he was asked about his mental health; § 87(2)(b) argued with the staff, cursed at them and walked out. When PO Reyes asked if § 87(2)(b) hurt anyone, the manager responded that he did not. After this information was obtained by PO Reyes, he and PO Martin switched roles—PO Martin went in to speak with the employees, while PO Reyes stayed outside speaking to § 87(2)(b). While telling PO Reyes what happened in the § 87(2)(b) § 87(2)(b) became agitated and demonstrated it by pacing and moving his fists up and down by his waist. § 87(2)(b) stated that he was not going to listen to anyone, which, according to PO Reyes, demonstrated uncooperative behavior. § 87(2)(b)'s physical gestures, as well as his uncooperative behavior, served as enough for PO Reyes to determine that § 87(2)(b) was potentially posing a threat of harm and was not free to leave.

PO Martin stated (BR 04) that he did not have any recollection of this incident, despite

being given a brief description of the incident, and shown the EVENT information (BR 05) and PO Burns's body-worn camera footage (BR 02), in an attempt refresh his memory.

In order to handcuff and detain a person for mental-health reasons, an officer must have probable cause to believe that the person presented a risk of harm to himself or others. Irrational or delusional behavior and mental illness alone are insufficient to [handcuff and detain], as a person may be annoyed, uncooperative, and irrational without presenting a danger to himself or of violence to others Jones v. New York, 2019 U.S. Dist. LEXIS 163418(BR 06).

PO Reyes stated (BR 03) that he believed § 87(2)(b) was a threat to himself because he was pacing due to his agitation and being uncooperative by constantly asking to leave and stating that he was not going to listen to anyone. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (C) Force: Police Officer Jeffry Reyes used physical force against § 87(2)(b)

PO Burns's Body Worn Camera (BR 02) shows a 4-minute and 50-second long audio and visual display of the incident. The entirety of the force alleged is seen from the 1:50 mark to the 2:02 mark. PO Reyes is seen pressing § 87(2)(b) with his riot shield softly once and telling him to get back. § 87(2)(b) lifts his forearm to slightly move the shield away from him, at which point PO Reyes forcefully pushes his shield into § 87(2)(b)'s upper body twice. PO Reyes drops the shield and grabs § 87(2)(b) by the back of his shirt collar and presses him in the glass window of the § 87(2)(b) that is behind him. PO Martin then removes PO Reyes off § 87(2)(b) while other officers place handcuffs on him.

PO Reyes stated (BR 03) that § 87(2)(b) attempted to leave multiple times after officers told him that he had to wait for EMS. § 87(2)(b) became agitated and attempted to leave through the gap between PO Martin and PO Reyes, which PO Reyes prevented by lifting his riot shield and moving it toward § 87(2)(b) to block his path. PO Reyes did not recall if the shield made contact with § 87(2)(b)'s body. § 87(2)(b) attempted to move the shield away with his right forearm by moving his arm forward. PO Reyes moved the shield toward § 87(2)(b) again and it made contact with the center of his body. PO Reyes did not recall whether § 87(2)(b) stumbled or fell backwards as a result of his contact with the shield; however, PO Reyes later stated that § 87(2)(b) did stumble backwards. PO Reyes did not recall any other instance in which he used his shield to prevent § 87(2)(b) from leaving. PO Reyes did not recall making additional physical contact with § 87(2)(b).

PO Martin stated (BR 04) that he had no independent recollection of the incident. When presented with the EVENT Information and a clip from PO Burns's body-worn camera of the incident, he still had no recollection of the incident. When presented with the footage, the investigator asked PO Martin if he recognized himself in the video, to which he responded, "a little bit", but still had no recollection of § 87(2)(b) or the incident.

According to the reasonableness standard for force located in NYPD Patrol Guide Procedure 221-01, there are several factors to consider when determining the reasonableness of the use of force, ranging from the nature of circumstances, to whether the civilian was under the influence (BR 07).

§ 87(2)(b), § 87(2)(g)

PO Reyes stated (BR 03) that § 87(2)(b)'s actions, which led him to believe that he was a danger and needed to be evaluated by EMS, involved pacing back and forth and multiple attempts to leave. PO Reyes also stated (BR 03) that these actions, as well as § 87(2)(b)'s agitation grew as the wait for EMS increased. The wait was about 20 minutes and EMS ultimately never arrived. § 87(2)(b), § 87(2)(g)

After § 87(2)(b) nudged PO Reyes's shield, PO Reyes pushes § 87(2)(b) forcefully twice, then drops his shield and grabs § 87(2)(b) by the back of his shirt collar. This force is stopped by PO Martin, who had to step in and physically remove PO Reyes from § 87(2)(b) while stating "Alright, alright, Reyes", as noted above from PO Burns's body-worn camera footage.

§ 87(2)(g)

PO Burns's body-worn camera footage (BR 02) showed that § 87(2)(b) was the only civilian among six other officers and appeared smaller and younger than each officer. No officer testified to knowing if § 87(2)(b) had a history of violence neither did any officer testify that § 87(2)(b) was under the influence of drugs nor intoxicated during the incident. The video footage also does not show any formation of a crowd.

§ 87(2)(b), § 87(2)(g)

Allegation (D) Discourtesy: Police Officer Jeffry Reyes spoke discourteously to § 87(2)(b)

As previously mentioned, PO Burns's body-worn camera footage (BR 02) captures PO Reyes using force on § 87(2)(b). A portion of the footage (BR 09) shows that when PO Reyes pushed § 87(2)(b) twice forcefully with his riot shield and proceeded to drop the shield and push § 87(2)(b) into a glass window by the back of his shirt collar, he spoke discourteously to

§ 87(2)(b) At the 00:06 second mark, PO Reyes can be heard saying “get the fuck back” and at the 00:09 second mark, he can be heard saying “what the fuck did I tell you” to § 87(2)(b) was standing still and not resisting. After PO Reyes is removed from § 87(2)(b) can be heard saying “You’re going to jail, boy”.

When presented with video footage of the force, PO Reyes stated (BR 08) did not recall saying “fuck” and stated that it could have been him who said it, but that he did not independently recall saying it. PO Reyes did recognize the voice that said “fuck” because there was commotion in the background.

As mentioned, PO Martin stated (BR 04) that he did not independently recall the incident. PO Martin was shown the use of force portion that is noted above from PO Burns’s body-worn camera (BR 02), which includes discourteous statements. When asked about the discourtesy specifically, PO Martin did not independently recall PO Reyes or any other officer using profanity throughout the incident, despite being shown the footage.

Profanity has been found to be permissible where the officer has resorted to such language in the heat of a highly dangerous situation. DAO-DCT Disciplinary Case No. 2013-10143 (BR 10).

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Jeffrey Reyes forcibly removed § 87(2)(b) to the hospital.

Allegation (F) Abuse of Authority: Police Officer Roderick Martin forcibly removed § 87(2)(b) to the hospital.

As noted in Allegation A, PO Reyes stated (BR 03) that since the radio run came through as an EDP, in addition to § 87(2)(b) s constant pacing and attempting to leave, § 87(2)(b) was a danger to himself and others, and thus, not free to go at any point. PO Reyes did not provide any examples of statements made by § 87(2)(b) that would be deemed threatening to himself or others, nor did he obtain information of threatening statements made by § 87(2)(b) from the § 87(2)(b) manager who called them. PO Reyes did not state that he or PO Martin consulted with their supervisor regarding § 87(2)(b) s actions leading to his detainment and the need for further evaluation from EMS. In addition, after § 87(2)(b) was restrained, PO Reyes and PO Martin had him removed to a local hospital in a police vehicle without first consulting with a supervisor.

PO Martin stated (BR 04) that he did not have any recollection of this incident, despite being shown the EVENT information (BR 05) and PO Burns’s body-worn camera footage (BR 02).

Police officers must take into custody any person who is apparently ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in a serious injury to himself or others. In addition, when presented with an EDP, officers are required to request and/or ensure the response of their patrol supervisor and an ambulance. NYPD Patrol Guide Procedure 221-13 (BR 11).

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
§ 87(2)(g)

§ 87(2)(b), § 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 15).
- PO Reyes has been a member-of-service for four years and this is the first complaint to which he has been a subject.
- PO Martin has been a member-of-service for eight years and has been a subject in three CCRB complaints and 10 allegations, none of which were substantiated. § 87(2)(b)

Mediation, Civil and Criminal Histories

